

From: David Brickner
To: Microsoft ATR
Date: 1/23/02 11:24am
Subject: Microsoft Settlement

As allowed by the Tunney Act I am commenting upon the proposed settlement to the Microsoft Anti-Trust trial.

I am opposed to the proposed settlement in the Microsoft antitrust trial. I feel that the current proposed settlement does not fully redress the actions committed by Microsoft in the past, nor inhibit their ability to commit similar actions in the future.

It has been ruled that Microsoft has an abusive monopoly and has performed anti-competitive behavior to the detriment of US corporations, US citizens and customers, and, by extension, the world market. These abuses drove such companies or products as Stac Compression, DR DOS, Netscape, WordPerfect, and Lotus SmartSuite out of business or to bare existence levels. There is nothing in the ruling that compensates these companies, or their customers, for the price gouging and loss of innovation that Microsoft's actions have caused.

Specifically, why is it that the cost of Microsoft Windows and Microsoft Office Suite are rising at the same time that hardware prices have dropped to commodity levels? Dell, Gateway, Compaq, HP, and IBM are all competitors for our hardware dollar and they get that dollar with quality products, low prices, and excellent service. Microsoft, in their monopoly position, uses proprietary formats that do not allow for direct competition on the aforementioned quality, low price, and service. They are able to charge high prices (thus protecting their fantastic profit margins) without fear of strong retribution from the customers or loss of revenue. WordPefect, as an example, cannot compete with Microsoft, because their product cannot read and write to Microsoft document formats without loss of information or formatting. They cannot compete on a level playing field, and customers cannot switch because their data, their business, is tied to Microsoft formats.

Microsoft has cried foul when the Department of Justice has sought to curtail it's "innovations" and prevent additional software from being added to the Windows Operating System. But, innovation has suffered more because of Microsoft's abusive monopoly. Nearly evertime a truly new, or innovative idea has emerged in the computer market Microsoft has either attempted to buy the technology or subvert it to their own ends. In many cases, they do both, they buy the technology and push it under the rug, then introduce their own proprietary version that they then foist upon the unsuspecting world. In all cases Microsoft is not the innovator they are the deep pocketed megacorporation who is seeking to extend their monopoly.

Examples of this abound:

1) Stac created a disk compression technology that was incredibly useful because hard disk sizes were so small. Microsoft created a competing product that came bundled with DOS and Windows that was actually based upon the Stac technology. They stole from Stac and used it to increase their own Windows market. A trial and settlement later ensued, but Stac was never a viable company or technology again.

2) MP3 files are all the rage for music sharing. Regardless of the possibly illegal implications of sharing such files, it is a viable technology in widespread use in the world, a de-facto standard. Microsoft will have none of this and has introduced its own compressed media playing format that you can only get from Microsoft. In its latest incarnation you cannot play it on Windows 95 because Microsoft has decided that they want to force users of that operating system to upgrade to later editions. MP3 files can play on nearly any OS in existence, encouraging diversity and giving people what they want on the operating system they prefer to use. Windows Media Format does not allow for this. Microsoft is also pushing their format onto hardware vendors to replace popular MP3 players, and onto home stereo equipment. Who, other than Microsoft, is really to be served by this?

3) Real practically created the online media streaming content, and briefly their future was bright. Then Microsoft decided that they also wanted this market. How is a small unknown company to compete with the monopoly that owns the platform the access?

4) Microsoft decided to get into the game market and is now one of the #1 vendors of video games on the PC (they are also seeking dominance in the game console market). By owning the platform, Windows, they are able to modify the very code of the operating system to support their own gaming efforts, no other vendor can compete with that. Competing game companies, barely surviving between game titles, are an easy purchased by the exceedingly wealthy Microsoft.

5) Hardware vendors who might have been encouraged to use competing operating systems such as BeOS, Linux, GeoWorks, OS/2, and such were not allowed to by exclusive contract deals with Microsoft that they were practically forced to agree to. Without these deals they could not have been competitive with those vendors who signed them. Dell, without such a deal, would have always had hardware prices consistently higher than Compaq with the deal because they would not have gotten the same price levels for the Windows Operating System or Microsoft Office despite ordering the same volume. This controlling of the "boot sector" is a major reason for the continued dominance of the Windows Operating System.

6) By virtue of tie-ins to their operating system (the platform)

Microsoft gains an automatic advantage over competitors. Who is to say that Microsoft doesn't do things that inhibits competition? They have already had a lawsuit that they had to settle with relation to DR DOS. DR DOS was an operating system that competed with MS DOS. Microsoft deliberately put code into its Windows 3.0 system, that ran on top of DOS products, to make it less stable when the DOS version was DR not MS. That is akin to AT&T owning all the telephone lines and creating switches that automatically put static on the lines with a customer uses Sprint or MCI.

In fact, that is how Microsoft Windows, and possibly Microsoft Office should be considered. Ubiquitous products that should have fair use laws placed on them. If Windows is to be the dominant desktop system, then all competitors should have fair access to it, just like competitors have access to telephone lines, highways, airlines, and railroads. My preference though is to not see Windows in this role, but an operating better suited for such a task, such as Linux, or the technology innovative BeOS.

Microsoft must be punished with both monetary charges and structural changes that will force it to not be able to use it's ownership of the platform (Windows) to push its other product offerings. Monetary charges must be severe, and reflect the overcharging they have been able to do for the past 12 years at least. Structural changes must be sweeping and create immediate entry for competitors to either compete on the Windows platform, or against the Windows Operating System.

Anything less that changes such as these means that US government has not performed the necessary actions in protecting free commerce in this nation.

Thank you.

David Brickner
512 School St
Belmont, MA 02478
(617)489-7492